

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHNNY B. DELASHAW, JR.,

Plaintiff,

v.

SEATTLE TIMES COMPANY, and
CHARLES COBBS,

Defendants.

CASE NO. 2:18-cv-00537-JLR

DECLARATION OF JESSICA L.
GOLDMAN IN SUPPORT OF THE
SEATTLE TIMES' SECOND MOTION
FOR SUMMARY JUDGMENT

**NOTED ON MOTION CALENDAR:
July 31, 2020**

I, Jessica L. Goldman, hereby declare:

1. I am counsel of record for Defendant Seattle Times Company in this matter. I am over the age of 18 and make this declaration based on personal knowledge.

2. For the Court's reference, we have highlighted the portions of the exhibits to this declaration to which we cite or reference in our Motion for Summary Judgment. Exhibits designated as "Confidential" by Plaintiff Dr. Johnny Delashaw, Defendant Dr. Charles Cobbs, nonparty Swedish Health Services, nonparty Dr. Rod Oskouian, and nonparty Dr. Zachary Litvack are being filed under seal.

3. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts of the testimony of Dr. Delashaw from the May 13, 2015 proceedings in re *A Grievance by Professor Mark Linsky, Before the Committee on Privilege & Tenure*, Irvine Division. (ST_0005366). The "Confidential" designation has been removed by The Seattle Times from these excerpts.

GOLDMAN DECL ISO SEATTLE TIMES' MOTION FOR
SUMMARY JUDGMENT - 1
[2:18-cv-00537-JLR]

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1 4. Attached hereto as **Exhibit 2** is a true and correct copy of a June 29, 2013 email
2 from Dr. Delashaw to Dave Sabey produced by Dr. Delashaw. (JDEL_008708-11). The
3 “Confidential” designation has been removed by Dr. Delashaw.

4 5. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts from the
5 transcript of the March 12, 2020 deposition of Dr. Mark Mayberg.

6 6. Attached hereto as **Exhibit 4** is a true and correct copy of an August 12, 2014 email
7 from Andy Cosentino to Dr. Sarah Fouke and Dr. Peter Nora produced by Dr. Delashaw.
8 (JDEL_007571-72). Dr. Delashaw designated this document as “Confidential.”

9 7. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from the
10 transcript of the June 1, 2020 deposition of Douglas Backous.

11 8. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts of the rough
12 draft transcript of the July 1, 2020 deposition of Dr. Zachary Litvack. As that deposition was just
13 taken last week, the final transcript is not yet available.

14 9. Attached hereto as **Exhibit 7** is a true and correct copy of a March 25, 2014 email
15 from Dr. Sarah Fouke to Drs. Delashaw and Ryder Gwinn produced by Dr. Delashaw.
16 (JDEL_120711-12). The “Confidential” designation has been removed by Dr. Delashaw.

17 10. Attached hereto as **Exhibit 8** is a true and correct copy of a July 17, 2014 email
18 string from Dr. Delashaw produced by Swedish. (SWE-E_015841-42). The “Confidential”
19 designation has been removed by Swedish.

20 11. Attached hereto as **Exhibit 9** is a true and correct copy of the February 24, 2013
21 First Amendment to Physician Employment Agreement of Dr. Douglas Backous produced by
22 Swedish. (SWE-E_026079-83). Swedish designated this document as “Confidential.”

23 12. Attached hereto as **Exhibit 10** is a true and correct copy of the November 1, 2004
24 Swedish Health Services Physician Employment Agreement for Dr. Jens Chapman produced by
25 Swedish. (SWE-E_004860-4879). Swedish designated this document as “Confidential.”
26

1 13. Attached hereto as **Exhibit 11** is a true and correct copy of excerpts from the
2 transcript of the June 23, 2020 deposition of Dr. Stephen Monteith.

3 14.)

4 15. Attached hereto as **Exhibit 13** is a true and correct copy of a February 6, 2017
5 email from Dr. Delashaw to Matt Doig and Don Shelton of the Seattle Times, produced by Dr.
6 Delashaw and marked as Deposition Exhibit 348. (JDEL_031327-34)

7 16. Attached hereto as **Exhibit 14** is a true and correct copy of excerpts from the
8 August 4, 2014 deposition of Dr. Delashaw in re *Rosendahl v. Oregon Health and Sciences*
9 *University, et al.* produced by Dr. Delashaw. (JDEL_068937). The “Confidential” designation
10 has been removed by Dr. Delashaw.

11 17. Attached hereto as **Exhibit 15** is a true and correct copy of excerpts from the July
12 26, 2017 deposition of Mark Mayberg in re *Newell v. Providence* produced by Dr. David Newell.
13 (NEWELL_SDT_005711). The “AEO” designation has been removed by Dr. Newell..

14 18. Attached hereto as **Exhibit 16** is a true and correct copy of excerpts from the April
15 24, 2019 Transcript of Proceeding in re *The State of Washington Dept. of Health Medical Quality*
16 *Assurance Commission* hearing produced by Dr. Delashaw. (JDEL_000957). The “Confidential”
17 designation has been removed by Dr. Delashaw.

18 19. Attached hereto as **Exhibit 17** is a true and correct copy of excerpts from the
19 transcript of the June 19, 2020 deposition of Daniel Kelly, MD.

20 20. Attached hereto as **Exhibit 18** is a true and correct copy of a February 24, 2017
21 email from Dr. Dan Kelly to R. Horten produced by Dr. Kelly and marked as Deposition Exhibit
22 504.

23 21. Attached hereto as **Exhibit 19** is a true and correct copy of excerpts from the
24 transcript of the June 2, 2020 deposition of Peggy Hutchison, MD that Swedish has advised are
25 not confidential.
26

1 22. Attached hereto as **Exhibit 20** is a true and correct copy of a January 27, 2014
2 email from R. Allen regarding the Providence and Swedish Board Members produced by Swedish.
3 (SWE_005726-29). The “Confidential” designation has been removed by Swedish.

4 23. Attached hereto as **Exhibit 21** is a true and correct copy of an August 5, 2014 email
5 from Swedish CEO Tony Armada forwarding an anonymous letter produced by Swedish.
6 (SWE_005747-50). The “Confidential” designation has been removed by Swedish.

7 24. Attached hereto as **Exhibit 22** is a true and correct copy of excerpts of the June 5,
8 2017 Declaration of Dr. Delashaw in re *The State of Washington Medical Quality Assurance*
9 *Commission* produced by Dr. Delashaw. (JDEL_016999)

10 25. Attached hereto as **Exhibit 23** is a true and correct copy of a September 3, 2015
11 email from Dr. John Anderson to Andy Cosentino produced by Swedish. (SWE-E_060292)

12 26. Attached hereto as **Exhibit 24** is a true and correct copy of a July 12, 2016 email
13 from Dr. John Vassall to Dr. Delashaw produced by Dr. Delashaw. (JDEL_013164-66)

14 27. Attached hereto as **Exhibit 25** is a true and correct copy of a September 22, 2016
15 email from J. Misajet to J. Altaras produced by Dr. Delashaw. (JDEL_012911). The
16 “Confidential” designation has been removed by Dr. Delashaw.

17 28. Attached hereto as **Exhibit 26** is a true and correct copy of a February 28, 2017
18 Memorandum re Violations of Swedish Bylaws written by Dr. Delashaw’s son and produced by
19 Dr. Delashaw. (JDEL_030030)

20 29. Attached hereto as **Exhibit 27** is a true and correct copy of an October 24, 2016
21 email from Dr. Oskouian to Shane Tubbs and Glen Davis produced by Dr. Cobbs.
22 (COBBS00000236)

23 30. Attached hereto as **Exhibit 28** is a true and correct copy of an October 28, 2016
24 email from Andy Cosentino produced by Swedish. (SWE-E_060531)

25 31. Attached hereto as **Exhibit 29** is a true and correct copy of an October 28, 2016
26 email to Dr. David Newell produced by Dr. Newell. (NEWELL_SDT_000110)

1 32. Attached hereto as **Exhibit 30** is a true and correct copy of an October 31, 2016
2 email from Dr. Jens Chapman produced by Dr. Cobbs. (COBBS00000292)

3 33. Attached hereto as **Exhibit 31** is a true and correct copy of an October 30, 2016
4 email from Dr. Rod Oskouian to Dr. Ryder Gwinn produced by Swedish. (SWE-E_061049). The
5 “Confidential” designation has been removed by Swedish.

6 34. Attached hereto as **Exhibit 32** is a true and correct copy of an October 30, 2016
7 email from Dr. Tubbs to Dr. Oskouian produced by Swedish. (SWE-E_061264)

8 35. Attached hereto as **Exhibit 33** is a true and correct copy of a November 3, 2016
9 email from Dr. Ryder Gwinn to Dr. Guy Hudson produced by Swedish. (SWE-E_060552)

10 36. Attached hereto as **Exhibit 34** is a true and correct copy of a November 1, 2016
11 email from Dr. Charles Cobbs to Dr. Ed Laws produced by Dr. Cobbs. (COBBS00000351)

12 37. Attached hereto as **Exhibit 35** is a true and correct copy of excerpts from the
13 transcript of the June 5, 2020 deposition of Edward Laws, JR., MD, FACS.

14 38. Attached hereto as **Exhibit 36** is a true and correct copy of an October 29, 2016
15 email from Dr. Charles Cobbs produced by Dr. Cobbs. (COBBS00000247)

16 39. Attached hereto as **Exhibit 37** is a true and correct copy of a November 2, 2016
17 email from Dr. Charles Cobbs to Dr. Luba Foltz produced by Dr. Cobbs. (COBBS00000553)

18 40. Attached hereto as **Exhibit 38** is a true and correct copy of a November 19, 2016
19 email that Dr. Cobbs has designed as “Confidential.” (COBBS00000903)

20 41. Attached hereto as **Exhibit 39** is a true and correct copy of a November 4, 2016
21 email from Dr. Charles Cobbs to Tony Armada produced by Swedish. (SWE-E_060572). The
22 “Confidential” designation has been removed by Swedish.

23 42. Attached hereto as **Exhibit 40** is a true and correct copy of a January 4, 2017 email
24 from Dr. Delashaw to Andy Cosentino produced by Dr. Delashaw. (JDEL_013212)

1 43. Attached hereto as **Exhibit 41** is a true and correct copy of a November 8, 2016
2 email from Dr. Ralph Pascualy to Dr. Rod Hochman produced by Swedish. (SWE-E_060532).
3 The “Confidential” designation has been removed by Swedish.

4 44. Attached hereto as **Exhibit 42** is a true and correct copy of a March 6, 2017 email
5 from Michele Matassa Flores to Mike Baker. (ST_0030654)

6 45. Attached hereto as **Exhibit 43** is a true and correct copy of a November 28, 2016
7 email from Dr. Delashaw to B. Bartlett produced by Swedish. (SWE-E_017976). The
8 “Confidential” designation has been removed by Swedish.

9 46. Attached hereto as **Exhibit 44** is a true and correct copy of a November 22, 2016
10 email from Tony Armada to Teresa Bigelow produced by Swedish. (SWE-E_059633) Swedish
11 has designated this document as “Confidential.”

12 47. Attached hereto as **Exhibit 45** is a true and correct copy of a November 22, 2016
13 email from Teresa Bigelow to Tony Armada and Dr. Hochman produced by Swedish. (SWE-
14 E_061074). The “Confidential” designation has been removed by Swedish.

15 48. Attached hereto as **Exhibit 46** is a true and correct copy of a November 22, 2016
16 email from Dr. Newell to Dr. J. Eskridge produced by Dr. Delashaw.

17 49. Attached hereto as **Exhibit 47** is a true and correct copy of a November 22, 2016
18 email from Dr. Newell to C. Morrison produced by Dr. Newell. (NEWELL_SDT_003457)

19 50. Attached hereto as **Exhibit 48** is a true and correct copy of a November 22, 2016
20 email from Dr. Newell to G. Britz produced by Dr. Newell. (NEWELL_SDT_003497)

21 51. Attached hereto as **Exhibit 49** is a true and correct copy of a November 22, 2016
22 email from Dr. Newell to Dr. K. Burchiel produced by Dr. Newell. (NEWELL_SDT_003537)

23 52. Attached hereto as **Exhibit 50** is a true and correct copy of a November 23, 2016
24 email from Dr. HR Winn to Dr. Newell produced by Dr. Newell. (NEWELL_SDT_003671)

25 53. Attached hereto as **Exhibit 51** is a true and correct copy of a November 23, 2016
26 email from Dr. Newell to Dr. R. Wohns produced by Dr. Newell. (NEWELL_SDT_003679)

1 54. Attached hereto as **Exhibit 52** is a true and correct copy of a November 30, 2016
2 email from Dr. Newell to C. Veal produced by Dr. Newell. (NEWELL_SDT_003729)

3 55. Attached hereto as **Exhibit 53** is a true and correct copy of a December 1, 2016
4 email from Dr. Newell to Bryans produced by Dr. Newell. (NEWELL_SDT_003769)

5 56. Attached hereto as **Exhibit 54** is a true and correct copy of a December 2, 2016
6 email from Dr. Newell to J. Gottlieb produced by Dr. Newell. (NEWELL_SDT_003809)

7 57. Attached hereto as **Exhibit 55** is a true and correct copy of a December 7, 2016
8 email from Dr. Newell to W. Kerpa produced by Dr. Newell. (NEWELL_SDT_003854)

9 58. Attached hereto as **Exhibit 56** is a true and correct copy of a January 7, 2017 email
10 from Dr. Jaffee to Dr. Newell produced by Dr. Newell. (NEWELL_SDT_003957)

11 59. Attached hereto as **Exhibit 57** is a true and correct copy of a November 26, 2016
12 email from Dr. Oskouian to S. Tubbs and A. Takasumi produced by Dr. Oskouian that Dr.
13 Oskouian has designated as “Confidential.” (OSK000414)

14 60. Attached hereto as **Exhibit 58** is a true and correct copy of a November 24, 2016
15 email from Dr. Oskouian to S. Tubbs and A. Takasumi produced by Dr. Oskouian that Dr.
16 Oskouian has designated as “Confidential.” (OSK000495)

17 61. Attached hereto as **Exhibit 59** is a true and correct copy of a November 23, 2016
18 email from Dr. Newell to M. Olson and E. Latocki produced by Dr. Cobbs. (COBBS00000948)

19 62. Attached hereto as **Exhibit 60** is a true and correct copy of a November 23, 2016
20 email from Dr. Charles Cobbs to M. Smith produced by Dr. Cobbs. (COBBS00001385)

21 63. Attached hereto as **Exhibit 61** is a true and correct copy of a February 11, 2017
22 email from Dr. Charles Cobbs to H. Kaplan produced by Dr. Cobbs. (COBBS00001662)

23 64. Attached hereto as **Exhibit 62** is a true and correct copy of a November 29, 2016
24 email from Dr. Delashaw produced by Swedish. (SWE-E_017862). Swedish has designed this
25 document as “Confidential.”
26

65. Attached hereto as **Exhibit 63** is a true and correct copy of a November 23, 2016 email from Dave Sabey to Dr. Delashaw produced by Dr. Delashaw. (JDEL_015458) Dr. Delashaw has removed the “private” designation.

66. Attached hereto as **Exhibit 64** is a true and correct copy of excerpts of text messages between Dr. Charles Cobbs and Drs. Santosh Kesari and Daniel Kelly produced by Dr. Cobbs. (COBBS00009865)

67. Attached hereto as **Exhibit 65** is a true and correct copy of excerpts from the transcript of the June 10, 2010 deposition of Cameron McDougall, MD.

68. Attached hereto as **Exhibit 66** is a true and correct copy of a November 22, 2016 letter to Naran Balasubramnin and Michele See produced by Swedish. (SWE_005764) Swedish has designated this document as “Confidential.”

69. Attached hereto as **Exhibit 67** is a true and correct copy of a November 28, 2016 Memo for Board of St. Joseph of Providence and the Board of Swedish Health Services and the Swedish Medical Staff and Community at Large. (ST_0010923)

70. Attached hereto as **Exhibit 68** is a true and correct copy of a December 5, 2016 email from J. Vogelsang forwarding November 28, 2016, Memo for Board of St. Joseph of Providence and the Board of Swedish Health Services and the Swedish Medical Staff and Community at Large re Financial and Leadership Crisis produced by Swedish. (SWE-E_060705). The “Confidential” designation has been removed by Swedish.

71. Attached hereto as **Exhibit 69** is a true and correct copy of a November 29, 2016 Letter to Dr. Delashaw from Dr. Hutchison produced by Dr. Zachary Litvack. (LIT_000518). Swedish has designated this document as “Confidential.”

72. Attached hereto as **Exhibit 70** is a true and correct copy of excerpts from the transcript of the November 3, 2017 deposition of Margaret Louise Hutchison, MD in re *State of Washington Depts. Of Health Medical Quality Assurance Commission* that Swedish has designated as “Confidential.” (JDEL_057155)

1 73. Attached hereto as **Exhibit 71** is a true and correct copy of a November 29, 2016
2 email from B. Bartlett to Dr. Delashaw produced by Swedish. (SWE-E_059865)

3 74. Attached hereto as **Exhibit 72** is a true and correct copy of text messages from the
4 phone of Dr. Zachary Litvack from November 29, 2016. (LIT_000234). The “Confidential”
5 designation has been removed by Swedish.

6 75. Attached hereto as **Exhibit 73** is a true and correct copy of text messages from Dr.
7 Delashaw on December 10, 2016 produced by Andy Cosentino. (COS_000047). The
8 “Confidential” designations have been removed by Swedish.

9 76. Attached hereto as **Exhibit 74** is a true and correct copy of text messages from Dr..
10 Delashaw on December 3-10, 2016, previously marked as Deposition Exhibit 383.
11 (MCD_000108-109). Swedish has designated the documents as “Confidential.”

12 77. Attached hereto as **Exhibit 75** is a true and correct copy of a text message from Dr.
13 Guy Hudson to J. Altaras and T. Armada produced by Dr. Hudson. (HUD_000390) The
14 “Confidential” designation has been removed by Swedish.

15 78. Attached hereto as **Exhibit 76** is a true and correct copy of a December 20, 2016
16 letter from Tony Armada to Dr. Delashaw produced by Dr. Delashaw. (JDEL_027310). The
17 “Confidential” designation has been removed by Dr. Delashaw.

18 79. Attached hereto as **Exhibit 77** is a true and correct copy of a December 22, 2016
19 email string between Dr.. Delashaw and D. Sabey produced by Swedish. (SWE-E_06009)

20 80. Attached hereto as **Exhibit 78** is a true and correct copy of a November 2016 text
21 message of Dr. C. Cobbs to Dr. R. Gwinn previously marked as Deposition Exhibit 249.

22 81. Attached hereto as **Exhibit 79** is a true and correct copy of a December 30, 2016
23 email from Mike Baker to M. Doig and F. Nelson. (ST_0011572)

24 82. Attached hereto as **Exhibit 80** is a true and correct copy of email communications
25 between M. Weinand and J. Schippers. (WNS 000014-61)

83. Attached hereto as **Exhibit 81** is a true and correct copy excerpts from the June 1, 2020 deposition of Douglas Backous, MD. These excerpts have been designated by Swedish as “Confidential.”

84. Attached hereto as **Exhibit 82** is a true and correct copy of excerpts from the rough draft of the July 1, 2020 deposition of Zachary Litvack. These have been designated by Swedish as “Confidential.”

85. Attached hereto as **Exhibit 83** is a true and correct copy of excerpts from the November 3, 2017 deposition of Margaret Louse Hutchison in re *State of Washington v. Dept of Health, Medical Quality Assurance Commission*. These have been designated by Swedish as “Confidential.” (JDEL-057156)

86. Attached hereto as **Exhibit 84** is a true and correct copy of excerpts from the transcript of the June 2, 2020 deposition of Peggy Hutchison, MD. These have been designated by Swedish as “Confidential.”

87. Attached hereto as **Exhibit 85** is a true and correct copy of an August 10, 2015 email from Andy Cosentino to Tony Armada produced by Swedish. (SWE-E-_060158). This has been designated as “Confidential” by Swedish.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED in Seattle, Washington this 8th day of July, 2020.

/s Jessica L. Goldman

Jessica L. Goldman, WSBA No. 21856